

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15CV181

DITCH WITCH OF CHARLOTTE, INC.,)
d/b/a Ditch Witch of the Carolinas,)
)
Plaintiff,)
)
Vs.)
)
BANDIT INDUSTRIES, INC.,)
)
Defendant.)
_____)

ORDER

This matter is before the Court upon numerous Motions *in Limine* filed by the parties. The Court held a pre-trial conference on June 14, 2017 in which the Court announced its rulings on the Motions *in Limine*. For the reasons stated in open court,

IT IS THEREFORE ORDERED that:

- 1) Plaintiff's Motion *in Limine* to Exclude Testimony on Alleged Counterclaim Damages (Doc. No. 79) is hereby DENIED;
- 2) Plaintiff's Motion *in Limine* to Exclude Evidence under Rules 402 and 403 (Doc. No. 82) is hereby GRANTED as to the Court's prior rulings at the preliminary injunction and summary judgment stages of the case, DENIED as to sales of Ditch Witch of aftermarket cutter-body assemblies except that Bandit may not mention anything with regard to patent infringement, DENIED as to provisions of the Dealer Agreement relating to termination and non-renewal, and DENIED with regard to Bandit's alleged reliance on extra-contractual promises by Ditch Witch;

- 3) Plaintiff's Motion *in Limine* to Exclude Testimony of Defendant's Purported Industry Experts (Doc. No. 85) is hereby DENIED;
- 4) Defendant's Motion *in Limine* No. 1 to Exclude Evidence Relevant Only to the SC Act Claim (Doc. Nos. 88 and 89) is hereby DENIED;
- 5) Defendant's Motion *in Limine* No. 2 to Exclude Certain Damages Evidence in Connection with Ditch Witch's Claim Under South Carolina Law (Doc. Nos. 88 and 90) is hereby DENIED;
- 6) Defendant's Motion *in Limine* No. 3 to Prohibit Use of the Term "Termination" With Respect to the Dealer Agreement (Doc. Nos. 88 and 91) is hereby DENIED AS MOOT;
- 7) Defendant's Motion *in Limine* No. 4 to Exclude Argument and Jury Instructions That Bandit's Selling Directly to Customers is a Breach of Contract (Doc. Nos. 88 and 92) is hereby DENIED; and
- 8) Defendant's Motion to Strike Late Expert Reports (Doc. No. 94) is hereby DENIED.

Signed: June 14, 2017

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

